

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA,

Plaintiff,

v.

ANTHONY J. PTACEK,

Defendant.

ORDER

08-cr-70-bbc-01

When defendant Anthony J. Ptacek failed to take any steps to sell assets to meet the restitution obligations imposed on him by the court, the government moved for an order holding him in contempt and for the tolling of his federal sentence. The motion was granted and the order issued on August 12, 2009.

Since the issuance of the order, defendant has stopped asserting that his father owns the boat in question that is worth approximately \$25,000 and has taken steps to sell it. Although no sale has taken place, the government has advised the court that it does not oppose an end to the tolling of the sentence, so long as defendant provides status reports to the court every 90 days, setting forth the efforts that have been made to sell the boat, and advises the court as soon as the boat is sold.

Now that he has made an effort to meet his restitution obligation, defendant has asked for credit on his sentence for the time that his sentence was tolled. The government opposes the request, arguing that defendant has shown no entitlement to the credit because he did not make any efforts to sell the boat until the tolling order issued. Defendant's counsel argues that defendant acted without the advice of counsel and that once counsel was appointed, he complied promptly.

Defendant did not need the advice of counsel to know that he had an obligation to liquidate his assets immediately to pay the \$25,000 restitution ordered by the court. His belated compliance does not warrant sentence credit.

ORDER

IT IS ORDERED that defendant Anthony J. Ptacek's motion for an end to the tolling of his sentence is GRANTED; defendant's sentence will be deemed to have resumed running as of November 13, 2009, when his counsel advised the court that defendant was taking steps to comply with his restitution obligation; his motion for sentence credit from August 12, 2009 through November 12, 2009 is DENIED.

FURTHER, IT IS ORDERED that defendant is to provide the court a status report of his progress in selling his boat every 90 days, beginning February 13, 2010 and is to

advise the court immediately if he accepts an offer for the boat.

Entered this 8th day of December, 2009.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge